



STAFF REPORT

Public Hearing to Consider a Resolution for Vacating Two Slope Easements, a Portion of Belmont Canyon Road and a Portion of a Path Right-of-Way, Over, Across, and Fronting the Properties at 2200, 2230 and 2260 Ralston Avenue (APN 044-260-170, 044-260-210 and 044-260-220)

Honorable Mayor and City Council:

Summary

The developer/property owner for 2200, 2230 and 2260 Ralston Avenue has requested that the City vacate and abandon the following easements:

1. A portion of Belmont Canyon Road right-of-way easement fronting 2230 and 2260 Ralston Avenue,
2. A portion of a 10-foot wide path right-of-way easement running between 2200 and 2230 Ralston Avenue,
3. A slope easement running over and across 2200 Ralston Avenue, and
4. A slope easement running over and across 2230 and 2260 Ralston Avenue.

The developer needs the right-of-way vacated to provide sufficient property line setback for each of the houses in his three-lot development. Previous property owners had incorrectly shown the property lines extending to Ralston Avenue and the City approved the development in part based on this incorrect information.

Background and Discussion

The City Council approved the Ralston Avenue three-lot development in August 2001 and the Planning Commission extended the planning entitlements for this project in December 2002. These approvals were based on property descriptions that have been recently found to be incorrect. In August 2003, staff issued the property owner a permit for a retaining wall on his property, but will not issue further building permits until the owner corrects the identified problems with property boundaries and obtains sufficient setback for his buildings. The following sections provide a summary of staff's understanding of how the property boundary

errors occurred derived from the available file information; a discussion of the current vacation request; and a listing of the additional future actions the owner needs to complete before he can begin building on these properties.

Background on Property Boundary Errors

On July 25, 1925, the Belmont Country Club Properties No. 4 subdivision map was filed with the County Recorder. This map dedicated to the City the 60-foot-wide Belmont Canyon Road right-of-way between Pullman Avenue and Cipriani Boulevard. Ralston Avenue later replaced this section of Belmont Canyon Road, but the City continues to hold the original right-of-way. This right-of-way fronts Lots 1 and 2 in Block 67 of the subdivision (now identified as 2230 and 2260 Ralston Avenue.) The map also dedicated a 10-foot wide public path right-of-way running between 2200 and 2230 Ralston linking Coronet Boulevard with Belmont Canyon Road. On November 16, 1966, two slope easements over the southerly portion of 2200, 2230, and 2260 Ralston Avenue were recorded with the County. This section of Belmont Canyon Road was about 25 feet lower in elevation than the current Ralston Avenue. The slope easements prevented construction that could have destabilized the steep upslope adjacent to the road. The attached Exhibit A shows these features.

In the 1970s, the State of California constructed this section of Ralston Avenue by realigning, grading, and straightening the road to its current configuration. The construction placed significant fill in front of 2200, 2230, and 2260 Ralston and so eliminated the need for the slope easements. The realignment left large sweeping curves of the Belmont Canyon Road right-of-way extending beyond the improved sections of Ralston Avenue. It also left several remnant lots purchased by the County in its role as land agent for the project.

In 1992, the property owner, Robert Cucinotta, began efforts to develop the three lots, then identified as 2594, 2596, and 2598 Coronet Boulevard. A 1992 memo to file indicates Mr. Cucinotta inquired about purchasing remnant Lot 11 adjacent to the eastern side of his properties. He also submitted an application to the City for a lot line adjustment to change the boundary between 2594 and 2596 Coronet (now 2260 and 2230 Ralston). The legal description for this adjustment incorrectly placed the southern property boundaries at the former Belmont Canyon Road centerline rather than at the right-of-way line. This error led to the misunderstanding that Ralston Avenue street improvements encroached over the 2230 and 2260 Ralston Avenue parcels. (Staff has verified that a small area of the street improvements do encroach over the 2200 Ralston Avenue parcel.) On March 26, 1993, the Council approved the lot line adjustment for recording by the County with a condition that a Record of Survey be filed. There is no information indicating that this condition was completed. From this date until 2001, all plans submitted to the City showed the Lot 1 and 2 parcels including 30 feet of Belmont Canyon Road right-of-way.

In 1999, Fred Voskoboynikov purchased the three lots from Robert Cucinotta and continued efforts to obtain City approval for development. He applied to the Planning Commission for a determination of consistency with the General Plan for exchange of "his private property underlying Ralston Avenue" for a portion of unneeded right-of-way (shown as an equivalent area of Lot 11). Staff was apparently unaware that Lot 11 was owned by San Mateo County rather than the City of Belmont. The Planning Commission made an affirmative determination on August 30, 1999 (Reso. 1999-42), finding that the "exchange of property will correct ownership of public street improvements." There is no record that this item was taken to the City Council for action and there is no file information indicating why the application was abandoned.

In January 2001, a staff reviewer examined the plans for a single family design review and grading project for the three-lot development and commented that the Lot 1 and Lot 2 boundaries did not agree with the County Recorder Map. The reviewer required that the applicant verify the accuracy of the boundaries and also update the plans to show the lots as they would "currently exist, i.e., after the land trade." The applicant's subsequent submissions showed the parcel southern boundaries at the back of the Ralston curb and the eastern boundary including a portion of Lot 11, implying that the land exchange had been completed. The Planning Commission and the City Council heard the application several times over the next eight months. On August 14, 2001, the City Council approved the project with a redesigned entry from Ralston Avenue (Reso. 9063). Staff comments concerning the property boundaries were not included in the final conditions of approval, indicating that they had been satisfied.

On December 17, 2002, the Planning Commission granted an extension of the approved Grading Plan and Single Family Design Review. The extension would have expired in a year unless the applicant obtained a building permit and diligently pursued construction. In Spring 2003, the applicant submitted grading and building plans for the retaining wall at the back of the development. Staff reviewed these plans and found them compliant with the project conditions of approval and City ordinances and so issued a permit for retaining wall construction on August 12, 2003. Construction of the retaining wall was substantially completed during Summer 2004.

In Summer 2003, the applicant applied for a new lot line adjustment and for vacation of the 10-foot path right-of-way. Staff could not reconcile the submitted legal descriptions for these actions with the City's records. The applicant's engineer attributed the boundary line discrepancies to the land exchange. Staff had a consultant research the City and County files and could not verify that a land exchange had been recorded or that the Belmont Canyon Road right-of-way had been vacated. Staff then required the applicant to obtain title reports for the land in question and pay a deposit to cover the City's costs to review and process the applications.

In Spring 2004, Fred Voskoboynikov sold the property to Fred Thayer. Mr. Thayer has worked diligently with staff to resolve the boundary line questions. After several months, he submitted

title reports for the properties that confirmed that the three lots substantially conform to those shown in the original 1925 subdivision map. No portion of Belmont Canyon Road right-of-way has been vacated to the properties and no portion of Lot 11 has been acquired. The title report further revealed that San Mateo County rather than the City of Belmont owns Lot 11. The County Supervisors will consider a staff recommendation to quitclaim remnant Lot 11 to the City of Belmont at their October 26 meeting.

Discussion of Current Vacation Request

The applicant is asking the City to vacate and abandon the right-of-way to release the land to his adjacent parcels. He needs this land to provide sufficient setback for the buildings and remove construction restrictions.

The City does not currently use or have future plans to improve the portion of the Belmont Canyon Road right-of-way between the Ralston Avenue street improvements and the 2230 and 2260 Ralston property lines. The City and other utility companies do have utilities in this right-of-way. Therefore, the City will retain a public utilities easement in this location if it chooses to vacate the right-of-way. Vacation of the Belmont Canyon Road right-of-way will adjust the true southern property lines to those shown in the single family design review plans previously approved by the Planning Commission and the City Council.

The public path right-of-way linking Coronet to Ralston has never been improved for use by pedestrians. There is no evidence that the City has current or future use for this right-of-way. The City does have storm drain utilities within the path right-of-way. Therefore, the City will retain a public utilities easement in this location if it chooses to vacate the right-of-way.

The applicant is asking the City to vacate the slope easements because they restrict the planned construction. The City no longer needs the slope easements to protect the street. They are artifacts dating from before the construction of Ralston Avenue. The large amount of fill placed during construction of Ralston Avenue substantially eliminated the slope along the frontage.

The applicant has contacted the utility companies operating in Belmont (SBC, ComCast, PG&E, Mid-Peninsula Water District, and City of Belmont Maintenance Division) and has received written confirmation that they do not object to the right-of-way vacation provided that public utility easements are reserved in these locations.

Property owners within 300 feet of the right-of-way and slope easements have been notified by mail that the City Council will hear the vacation requests at the October 26, 2004 meeting. Staff has posted notices of the vacation hearing along the line of the street and easements proposed for abandonment as required by the Streets and Highways Code. Notice has also been published twice in the San Mateo Times as required by this code.

Future Actions Necessary for the Ralston Three Lot Development

The requested right-of-way and slope easement vacations are the first of several actions the property owner needs to complete to comply with City requirements and to conform his properties to those previously presented to the City for project approval. Additional actions he needs to complete include the following:

1. Purchase all or a portion of remnant Lot 11 east of 2200 Ralston Avenue prior to the development of 2200 Ralston Avenue. This purchase is needed to provide sufficient land and setback for the building at this address. The County intends to quitclaim Lot 11 to the City. After the quitclaim is processed, the owner intends to submit a proposal to the City to purchase a portion of Lot 11.
2. Attain approval of a lot line adjustment to realign Lots 1 and 2 (2230 and 2260 Ralston Avenue) and between Lots 1 and 12 (2230 and 2200 Ralston Avenue). This action is needed to “square” the lots to Ralston Avenue and thereby provide sufficient setback for the buildings at these addresses.
3. Dedicate to the City additional right-of-way fronting 2200 and 2230 Ralston Avenue; a public utility easement over the proposed common driveway; and a storm drain easement across 2260 Ralston Avenue.
4. Prepare and file with the County Recorder a Record of Survey to document and summarize all the various dedications and abandonments related to these properties.

Fiscal Impact

There is no fiscal impact from this action. The applicant will bear all costs for the City’s processing of the vacation requests.

Recommendation

Staff recommends that, after hearing public comment upon the proposed vacations, the City Council approve the resolution vacating two slope easements, a portion of Belmont Canyon Road right-of-way and a portion of a path right-of-way, over, across, and fronting the properties at 2200, 2230 and 2260 Ralston Avenue (APN 044-260-170, 044-260-210 and 044-260-220). The City is not using and does not have future plans to use these right-of-way and slope easements.

Alternatives

1. Refer back to staff for further information.
2. Deny the requests.

2200 Ralston Right-of-Way Public Hearing
October 26, 2004
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Attachments

1. Resolution
2. Exhibit A – Site map

Respectfully submitted,

Kathleen E. Phalen, PE
City Engineer

Raymond E. Davis III, PE, PTOE
Public Works Director

Daniel Rich
Interim City Manager

RESOLUTION NO. _____

**CITY OF BELMONT
San Mateo County, California**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT VACATING
TWO SLOPE EASEMENTS, A PORTION OF BELMONT CANYON ROAD AND A
PORTION OF A PATH RIGHT-OF-WAY, OVER, ACROSS, AND FRONTING THE
PROPERTIES AT 2200, 2230 AND 2260 RALSTON AVENUE
(APN 044-260-170, 044-260-210 AND 044-260-220)**

WHEREAS, that certain map entitled, "Map of Subdivision No. 4 Belmont Country Club Properties, Belmont, San Mateo County, California" filed in the office of the County Recorder of the County of San Mateo, State of California on July 10, 1925 in Book 12 of Maps at Pages 43 through 49, showing Belmont Canyon Road as a right-of-way fronting Lots 1 and 2 in Block 67 of said map; and,

WHEREAS, said map also shows a ten (10) foot wide path right-of-way running between Lots 1 and 12 in Block 67 of said subdivision; and,

WHEREAS, a Final Order of Condemnation, Case No. 114332 was filed in the office of the County Recorder of the County of San Mateo, State of California on September 16, 1966 in Book 5239 at Page 189, Series No. 9877AA, showing two slope easements running over and across the southerly portion of said Lots 1, 2 and 12; and,

WHEREAS, a public hearing was held on the 26th day of October 2004, at the hour of 7:30pm, or as soon thereafter as the matter could be heard, in the Twin Pines Senior and Community Center, 1223 Ralston Avenue, Twin Pines Park, Belmont, California, as provided by Resolution No. 9591 adopted September 28, 2004, expressing the Council's intention to vacate and abandon the following rights-of-way and easements:

1. A portion of Belmont Canyon Road right-of-way fronting said Lots 1 and 2 (2230 and 2260 Ralston Avenue).
2. A portion of a 10-foot wide path right-of-way running between said Lots 1 and 12 (2200 and 2230 Ralston Avenue).
3. A slope easement running over and across the southerly portion of said Lots 1 and 2 (2230 and 2260 Ralston Avenue).
4. A slope easement running over and across the southerly portion of said Lot 12 (2200 Ralston Avenue); and,

WHEREAS, public utility easements will be retained by the City over the portion of the Belmont Canyon Road right-of-way and the ten (10) foot path right-of-way to be abandoned; and,

WHEREAS, notice of said public hearing was mailed, posted and published in the manner and for the time prescribed by law

WHEREAS, all interested persons were given the opportunity to be heard at said public hearing, and the Council has taken into consideration all evidence adduced in the record in that said hearing; and,

WHEREAS, after hearing and considering all of said evidence, the public hearing was closed and the matter was taken into the hands of the council; and,

WHEREAS, substantial evidence in the record shows that adequate alternative access is available to all of the properties formerly served by said street and path right-of-way.

WHEREAS, the City Council of the City of Belmont, in accordance with the provisions of the Streets and Highways Code of the State of California, Section 8300 Division 9, Part 3, Chapter 4, thereof, elects to vacate and abandon said easements and rights-of-way.

NOW, THEREFORE BE IT RESOLVED, THAT:

City Council having given due consideration to all the evidence presented at the public hearing, and all other evidence and reports submitted as part of the record of this matter, and upon such consideration and evidence, makes the following decisions.

2. The City Council does hereby order that under the provisions of Section 8300 of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code that the following rights-of-way and easements are hereby vacated:
 - a. A portion of Belmont Canyon Road right-of-way fronting said Lots 1 and 2 as shown on Exhibit A1 and A2 attached hereto and made a part hereof.
 - b. A portion of a 10-foot wide path right-of-way running between said Lots 1 and 12 as shown on Exhibit B1 and B2 attached hereto and made a part hereof.
 - c. A slope easement running over and across the southerly portion of said Lots 1 and 2 as shown on Exhibit C1 and C2 attached hereto and made a part hereof.
 - d. A slope easement running over and across the southerly portion of said Lot 12 as shown on Exhibit D1 and D2 attached hereto and made a part hereof.
2. Public utility easements are hereby reserved, pursuant to the provisions of Section 8340 of the Streets and Highways Code, upon, over and across that portion of Belmont Canyon Road and 10 foot path right-of-way being abandoned.

3. From and after the date of recordation of this resolution, the vacated easements and rights-of way will no longer constitute a public easement/right-of-way except the reserved public utility easements.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on October 26, 2004.

AYES, COUNCIL MEMBER(S): _____

NOES, COUNCIL MEMBER(S): _____

ABSENT, COUNCIL MEMBER(S): _____

ABSTAIN, COUNCIL MEMBER(S): _____

City Clerk, City of Belmont

APPROVED:

Mayor, City of Belmont

Exhibit 'A'

Exhibit Map

Coronet Blvd

showing proposed residential project located at 2200, 2230 and 2260 Ralston Ave. Being portions of APNs 044-260-170, 044-260-210 and 044-260-220. Lots 1 and 2, block 67 and Lots 12 and 11, Block 66 as shown on the map entitled "Belmont Country Club Properties Subdivision No. 4, RSM 12/43-49, San Mateo County Records

San Mateo County
Sept 10, 2004
Scale 1"=10'
Job# C 146 B

City of Belmont

California

Ralston Avenue

